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8  
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WISDOM MARINE LINES, S.A, WISDOM MARINE  
LINES CO., LTD., and SAO WISDOM, S.A.  
10

11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**  
13

14 ARABIAN GAS AND OIL DEVELOPMENT ) Case No. 4:16-cv-03801-DMR  
15 COMPANY, a Bahrain Corporation, )  
16 Plaintiff, ) Related Case: 4:16-cv-03872-DMR  
17 vs. )  
18 WISDOM MARINES LINES, S.A, a Panama ) **DECLARATION OF JAMES A. MARISSEN**  
19 Corporation, WISDOM MARINES LINES CO., LTD., a Cayman Islands Corporation, and SAO ) **IN SUPPORT OF SPECIALLY APPEARING**  
20 WISDOM, S.A., a Panama corporation, ) **DEFENDANTS' MOTION TO INCREASE**  
21 Defendants. ) **UNDERTAKING POSTED BY PLAINTIFF**  
22 ) **WITH THE COURT**  
23 )  
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I, JAMES A. MARISSEN, declare as follows:

1. I am an attorney at law licensed to practice before this Court and am a shareholder with the law firm of Keesal, Young & Logan, attorneys for Specially Appearing Defendants WISDOM MARINE LINES, S.A, WISDOM MARINES LINES CO., LTD., and SAO WISDOM, S.A. ("Defendants") in this matter. I make this declaration on the basis of my personal knowledge, except for those items stated to be based upon information and belief, all of which I

1 believe to be true. If called upon to testify as a witness, I could and would testify as to the  
 2 competently thereto.

3           2. I submit this declaration in support of Defendants' Motion to Increase  
 4 Undertaking posted by Plaintiff with the Court.

5           3. I am informed and believe that Keesal, Young & Logan has the largest  
 6 admiralty practice on the west coast of the United States. It has offices in Long Beach, San Francisco,  
 7 Seattle, Anchorage, and Hong Kong. The firm regularly represents clients involved in the maritime  
 8 and transportation industry. KYL Partners are regularly honored by their peers to be "Best Lawyers"  
 9 for Southern California in the area of Admiralty/Maritime law.

10          4. I have specialized in maritime and admiralty litigation and arbitration since  
 11 being admitted to practice law in 1999. I have been admitted to practice in Australia, England,  
 12 California, and New York, and have been with Keesal, Young & Logan since 2008. My practice  
 13 includes conducting commercial, admiralty and international litigation and arbitration on behalf of  
 14 ship owners, charterers, freight forwarders, terminal operators, insurers, salvors, commodity traders  
 15 and other corporate clients in relation to arrest and attachment proceedings (particularly Rules B, C, D,  
 16 and F admiralty proceedings), charterparty and bill of lading disputes, cargo claims, maritime liens,  
 17 letter of credit disputes, marine insurance, personal injury, international trade, salvage and other  
 18 commercial disputes. I have particular expertise in conducting multi-jurisdictional litigation. I also  
 19 have extensive experience in emergency response to serious shipping casualties, collisions and  
 20 pollution incidents throughout the United States and the world. My practice also includes non-  
 21 contentious maritime work including drafting charterparty agreements, bill of lading terms, passenger  
 22 tickets and ship sale and purchase contracts. I have written published articles in various international  
 23 maritime law journals and am a speaker at seminars on shipping and trade matters in international  
 24 forums and universities.

25          5. As a litigation attorney and shareholder, I routinely manage litigation teams in  
 26 the defense of large maritime and commercial disputes. I supervised the defense of this matter on  
 27 behalf of the Defendants.

28          ///

1           6. On or about September 22, 2016, I reviewed the billing information for this  
 2 matter, including the number of hours expended by Keesal, Young & Logan on behalf of Defendants  
 3 responding to Plaintiff ARABIAN GAS AND OIL DEVELOPMENT COMPANY (“AGODCO”)  
 4 writ of attachment and attachment of the vessel M/V *GLOBAL FAITH* (“Vessel”) (“the Attachment”),  
 5 argument before this Court for orders quashing AGODCO’s writ of attachment and releasing the  
 6 Vessel from attachment, pursuing this Motion and Defendants’ forthcoming motion to damages for  
 7 wrongful attachment. As of August 31, 2016, Keesal, Young & Logan had spent more than 370 hours  
 8 addressing issues which arose by sole virtue of the writ of attachment and advancing motions for  
 9 orders quashing the writ of attachment. The majority of these hours were incurred by two partners,  
 10 Elizabeth P. Beazley and James A. Marissen, and two associates, Christopher R. Farnsworth and  
 11 Rachel A. Weitzman, and included the following activities: reviewing various pleadings regarding the  
 12 Verified Complaint and writ of attachment, numerous teleconferences and correspondence with  
 13 Defendants and their English counsel getting up to speed on the status of the dispute in London  
 14 arbitration., additional conferences and communications with Defendants and their English, Bahraini  
 15 and Taiwanese counsel to collect evidence supporting the motion to vacate the writ of attachments and  
 16 reviewing evidence, conducting relevant legal research (including but not limited to issues of subject  
 17 matter jurisdiction, standing, capacity to sue, set off, increase undertaking amount and damages for  
 18 wrongful attachment), preparing various extensive pleadings and declarations, attending a hearing  
 19 before this Court, related intra-office meetings and strategy sessions.

20           7. The briefing in relation to subject matter jurisdiction required significant legal  
 21 research and detailed analysis of this complex and somewhat novel area of the law, being namely the  
 22 scope of jurisdiction conferred by the Federal Arbitration Act in situations where the sole remedy  
 23 sought is attachment to secure a potential award for a pending arbitration counterclaim in a foreign  
 24 jurisdiction. Also, and generally speaking, the unique circumstances whereby California writ of  
 25 attachment law, and not federal maritime law, governed the attachment of the Vessel, presented  
 26 additional challenges to be addressed in Defendants’ motion and defense efforts. Defendants maintain  
 27 that the mandatory off-set as required under California Code of Civil Procedure section 483.015(b)  
 28 should have reduced AGODCO’s security demand to zero.

1           8.       The average billing rate for the partners mentioned above is USD\$385 and for  
 2 the associates mentioned above is USD\$285 and US\$225 per hour respectively. The effective billing  
 3 rate for all of the attorneys who worked on this matter combined was \$309. These average billing  
 4 rates represented our standard billing rates for maritime matters at the time the fees were incurred.

5           9.       Before submitting an invoice to Defendants, I reviewed the invoices and “wrote  
 6 off” time attributed to the file that I found to be inefficient or duplicative.

7           10.      On or about September 22, 2016, I reviewed a summary of all attorneys’ fees  
 8 and disbursements invoiced in this matter arising from our representation of Defendants’ in this  
 9 action. Upon review of this summary, all of the attorneys’ fees and disbursements invoiced to  
 10 Defendants to date currently amount to US\$115,884.05.

11          11.      On or about September 14, 2016, I was informed by Defendants’ English  
 12 counsel, Holman Fenwick Willan, and believe that its attorneys’ fees related solely to defending  
 13 AGODCO’s writ of attachment proceedings currently amount to US\$40,850. Defendants’ main (and  
 14 prevailing) argument that AGODCO had failed to discharge its burden that it was more likely than not  
 15 to succeed on its underlying counterclaim mandated a detailed review of the procedural status of the  
 16 London arbitration, a detailed review and recitation of the underlying facts of the dispute, as well as  
 17 coordination of Defendants’ legal arguments in support of its original claim and its defenses to  
 18 AGODCO’s counterclaim. As AGODCO’s underlying counterclaim is pending in London and  
 19 governed by English law, it was necessary for Defendants’ English counsel, Holman Fenwick Willan,  
 20 to be intimately involved in developing Defendants’ merits-based arguments and also required  
 21 extensive declarations both on points of law and relevant facts of the dispute.

22          12.      On or about September 14, 2016, I was informed by Defendants’ English  
 23 counsel, Holman Fenwick Willan, and believe that Defendants’ Bahraini counsel, Amin Law Firm,  
 24 had incurred attorneys’ fees related solely to defending AGODCO’s writ of attachment proceedings in  
 25 the amount of US\$13,330. As the capacity of a foreign corporation to sue is determined by the law of  
 26 the country where the corporation is allegedly registered or existing, Defendants’ argument required  
 27 the retention of Bahraini counsel and significant assistance from Bahraini counsel both as to points of  
 28 Bahraini law and as to factual investigations of AGODCO’s corporate status.

1           13. On or about September 22, 2016, I was informed by Defendants' English  
 2 counsel, Holman Fenwick Willan, and believe that Defendants' Taiwanese counsel, Jheding  
 3 International Law Offices, had incurred attorneys' fees related solely to defending AGODCO's writ of  
 4 attachment proceedings in the amount of US\$1,000. In response to the Court's request for  
 5 supplemental briefing, Defendants' arguments required the retention of Taiwanese counsel and  
 6 significant assistance from them on this issue of whether English arbitration decisions are enforceable  
 7 in Taiwan as a matter of Taiwanese law.

8           14. On or about September 22, 2016, I was informed by Defendants' English  
 9 counsel, Holman Fenwick Willan, and believe that Defendants' appointed surveyor, Brookes Bell, had  
 10 incurred fees related solely to defending AGODCO's writ of attachment proceedings in the amount of  
 11 US\$740.00. To further support Defendants' merit-based arguments, Defendants' obtained a  
 12 declaration from their appointed marine surveyor, Brookes Bell, to refute AGODCO's claims  
 13 regarding alleged defects with the construction of the vessel concerned in the underlying dispute in the  
 14 London arbitration.

15           15. Attached hereto as Exhibit 1 is a true and correct copy of relevant excerpts  
 16 (Page 34, line 20 through page 37, line 1) of the transcript from the August 4, 2016 hearing on  
 17 Defendants' motion to dismiss Plaintiff's complaint and vacate the writ of attachment.

18           16. Based upon the information outlined above, I conclude that Defendants have  
 19 currently incurred potential wrongful attachment damages totaling USD\$186,804.05 as a result of  
 20 AGODCO's writ of attachment efforts.

22           Executed this 29<sup>th</sup> day of September, 2016, at Long Beach, California.

23           I declare under penalty of perjury under the laws of the United States of America that  
 24 the foregoing is true and correct.

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Case Name: *Arabian Gas and Oil Development Co v. Wisdom Marines Lines, et. al.*  
 Case No.: USDC, Northern District Case No: 4:16-cv-03801-DMR (related to 16-cv-03872)  
 KYL File No.: 7811-3

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and  
 4 not a party to the within action; my business address is Keesal, Young & Logan, 400 Oceangate, Long  
 Beach, California 90802.

5 On September 29, 2016, I served the foregoing documents described as **DECLARATION OF**  
**JAMES A. MARISSEN IN SUPPORT OF SPECIALLY APPEARING DEFENDANTS'**  
**MOTION TO INCREASE UNDERTAKING POSTED BY PLAINTIFF WITH THE COURT**  
 6 on the parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as  
 7 follows:

8 Frank C. Brucculeri, Esq.  
 9 Daniel F. Berberich, Esq.  
 KAYE, ROSE & PARTNERS  
 10 9100 Wilshire Blvd., Ste 420W  
 Beverly Hills, CA 90212  
 11 Ph. (310) 551-6555  
 Fax (310) 277-1200  
 12 Email: [fbrucculeri@kayerose.com](mailto:fbrucculeri@kayerose.com)  
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Co-Counsel for Plaintiff ARABIAN GAS AND  
 OIL DEVELOPMENT COMPANY

13 George A. Gaitas, Esq.  
 14 Chalos & Co., P.C.  
 15 7210 Tickner Street  
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 16 Ph. (713) 574-9582  
 Fax (866) 702-4577  
 17 Email: [georgegaitas@chaloslaw.com](mailto:georgegaitas@chaloslaw.com)

Co-Counsel for Plaintiff ARABIAN GAS AND  
 OIL DEVELOPMENT COMPANY

18  BY CM/ECF: The document was electronically served on the parties to this action via  
 19 the mandatory United States District Court of California CM/ECF system upon electronic filing of  
 above-described document.

20 Executed on September 29, 2016 at Long Beach, California.

21 I declare under penalty of perjury under the laws of the State of California and United States of  
 22 America that the foregoing is true and correct.

23 I declare that I am employed in the office of a member of the bar of this Court at whose  
 24 direction the service was made.

25 /s/ Tammy Wade  
 26 TAMMY WADE